

48-3a-1024 Amendment or abandonment of plan of merger.

- (1) A plan of merger may be amended only with the consent of each party to the plan, except as otherwise provided in the plan.
- (2) A domestic merging limited liability company may approve an amendment of a plan of merger:
 - (a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
 - (b) by the managers or members in the manner provided in the plan, but a member that was entitled to vote on or consent to approval of the merger is entitled to vote on or consent to any amendment of the plan that will change:
 - (i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by the interest holders of any party to the plan;
 - (ii) the public organic record, if any, or private organic rules of the surviving entity that will be in effect immediately after the merger becomes effective, except for changes that do not require approval of the interest holders of the surviving entity under its organic law or organic rules; or
 - (iii) any other terms or conditions of the plan, if the change would adversely affect the member in any material respect.
- (3) After a plan of merger has been approved and before a statement of merger becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic merging limited liability company may abandon the plan in the same manner as the plan was approved.
- (4) If a plan of merger is abandoned after a statement of merger has been delivered to the division for filing and before the statement becomes effective, a statement of abandonment, signed by a party to the plan, must be delivered to the division for filing before the statement of merger becomes effective. The statement of abandonment takes effect on filing, and the merger is abandoned and does not become effective. The statement of abandonment must contain:
 - (a) the name of each party to the plan of merger;
 - (b) the date on which the statement of merger was delivered to the division for filing; and
 - (c) a statement that the merger has been abandoned in accordance with this section.

Enacted by Chapter 412, 2013 General Session